

RIVERS AND HARBORS AND FLOOD CONTROL ACTS  
OF 1970

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DECEMBER 17, 1970.—Ordered to be printed

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Mr. BLATNIK, from the committee of conference,  
submitted the following

CONFERENCE REPORT

[To accompany H.R. 19877]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19877) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*TITLE I—RIVERS AND HARBORS*

*SEC. 101. The following works of improvement of rivers and harbors and other waterways for navigation, flood control, and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated. The provisions of section 1 of the River and Harbor Act approved March 2, 1945 (Public Law Numbered 14, Seventy-ninth Congress), shall govern with respect to projects authorized in this title; and the procedures therein set forth with respect to plans, proposals, or reports for works of improvement for navigation or flood control and for irrigation and purposes incidental thereto, shall apply as if herein set forth in full.*

(1)

## NAVIGATION

*Pleasant Bay, Massachusetts: House Document Numbered 91-430, at an estimated cost of \$10,221,000;*

*Baltimore Harbor and Channels, Maryland and Virginia: Chief of Engineers report dated September 21, 1970, except that not to exceed \$40,000,000 is authorized for initiation and partial accomplishment of such project, and except that construction shall not be initiated until approved by the Secretary of the Army and the President;*

*Atlantic Intracoastal Waterway Bridges, Virginia and North Carolina: Chief of Engineers report dated November 24, 1970, at an estimated cost of \$11,220,000, except that construction shall not be initiated until approved by the Secretary of the Army and the President;*

*Manteo (Shallowbag) Bay, North Carolina: House Document Numbered 91-303, at an estimated cost of \$10,769,000;*

*Pamlico River and Morehead City Harbor, North Carolina: Report of the Chief of Engineers dated November 23, 1970, at an estimated cost of \$2,642,000, except that construction shall not be initiated until approved by the Secretary of the Army and the President;*

*Port Sutton, Tampa Harbor, Florida: House Document Numbered 91-150 maintenance;*

*Tampa Harbor, Florida: House Document Numbered 91-401, except that not to exceed \$40,000,000 is authorized for initiation and partial accomplishment of such project; after the date of enactment of this Act the Secretary of the Army, acting through the Chief of Engineers, shall maintain the Port Sutton Terminal Channel and the East Bay Channel and Turning Basin;*

*Freeport Harbor, Texas: Chief of Engineers report dated November 23, 1970, at an estimated cost of \$13,710,000, except that construction shall not be initiated until approved by the Secretary of the Army and the President;*

*Coos Bay, Oregon: House Document Numbered 91-151, at an estimated cost of \$9,100,000;*

*Nawiliwili Harbor, Kauai, Hawaii: Chief of Engineers report dated November 24, 1970, at an estimated cost of \$1,952,000, except that construction shall not be initiated until approved by the Secretary of the Army and the President.*

## BEACH EROSION

*Lido Key, Florida: House Document Numbered 91-320, at an estimated cost of \$240,000; the Secretary of the Army, acting through the Chief of Engineers, is authorized to reimburse or credit local interests for work performed by them subsequent to July 1, 1968, and in accordance with the recommended plan of improvement.*

*SEC. 102. The Secretary of the Army is hereby authorized and directed to cause an immediate study to be made under the direction of the Chief of Engineers of a navigation channel having a depth of seventeen feet at mean low water, and a width of one hundred feet, extending a distance of approximately two and one-half miles from deep water in Saint Georges Creek, Maryland, to the Harry Lundeborg School of Seamanship at Piney Point, Maryland, and terminating in a turning basin at that location. Such project because of its immediate and long-range value to the United States Merchant Marine*

and to national defense, is hereby authorized, at an estimated cost of \$475,000, as determined to be feasible and justified by the Chief of Engineers and Secretary of the Army with the approval of the President, unless within the first period of ninety calendar days of continuous session of the Congress after the date on which the report is submitted to it, such report is disapproved by the Congress. The requirements for cooperation shall include provisions that local interests shall furnish all lands, easements, and rights-of-way for construction and future maintenance of the project; hold and save the United States free from damages, and bear the cost of all spoil disposal areas.

SEC. 103. The costs of operation and maintenance of the general navigation features of small boat harbor projects authorized between January 1, 1970, and December 31, 1970, under the authority of this Act, section 201 of the Flood Control Act of 1965, or section 107 of the River and Harbor Act of 1960, shall be borne by the United States.

SEC. 104. The proviso in section 6 of the Act of July 3, 1930, as amended (48 Stat. 948; 33 U.S.C. 569a), is amended to read as follows: "Provided, That individuals so engaged may be paid at rates not to exceed the daily equivalent of the rate for GS-18 for each day of their services."

SEC. 105. The civilian members of the Board on Coastal Engineering Research authorized by the Act of November 7, 1963 (33 U.S.C. 426-2) may be paid at rates not to exceed the daily equivalent of the rate for GS-18 for each day of attendance at Board meetings, not to exceed thirty days per year, in addition to the traveling and other necessary expenses connected with their duties on the Board in accordance with the provisions of 5 U.S.C. 5703 (b), (d), and 5707.

SEC. 106. The Secretary of the Army is hereby authorized and directed to cause surveys to be made at the following locations and subject to all applicable provisions of section 110 of the River and Harbor Act of 1950:

Shooters Island, New York, possible removal and utilization for fill and widening of Arthur Kill.

Elk River, Maryland.

Stillpond Creek, Kent County, Maryland.

Patapsco River, Brooklyn, Maryland.

Kanawha and James Rivers, with a view to determining the advisability of providing a waterway connecting the Kanawha River, West Virginia, and James River, Virginia, by canals and appurtenant facilities.

Ventura Marina to Ventura Keys, Ventura County, California.

Harbors and rivers in American Samoa and the territory of Guam, in the interests of navigation, flood control, and related water resources purposes.

Kaneohe Bay, Oahu, Hawaii, with a view of recommending improvements in the interests of pollution abatement, navigation, recreation, and overall bay development.

Wailua, Kauai, Hawaii (beach erosion).

West Hawaii, Kona area, Hawaii, Hawaii (beach erosion).

Maunaloa Bay, Oahu, Hawaii (beach erosion).

Hanauma Bay, Oahu, Hawaii (beach erosion).

Kaaawa area, Oahu, Hawaii (beach erosion).

*Hauula area, Oahu, Hawaii (beach erosion).*

*Mokuleia area, Oahu, Hawaii (beach erosion).*

*Keehi Lagoon area, Oahu, Hawaii (beach erosion).*

*Sandy Beach Park, Oahu, Hawaii (beach erosion).*

*Ewa Beach, Oahu, Hawaii (beach erosion).*

*Maile-Waianae coast area, Oahu, Hawaii (beach erosion).*

SEC. 107. (a) *The Secretary of the Army, acting through the Chief of Engineers, is authorized to conduct a survey of the Great Lakes and Saint Lawrence Seaway to determine the feasibility of means of extending the navigation season in accordance with the recommendations of the Chief of Engineers in his report entitled "Great Lakes and Saint Lawrence Seaway—Navigation Season Extension."*

(b) *The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Departments of Transportation, Interior, and Commerce, including specifically the Coast Guard, the Saint Lawrence Seaway Development Corporation, and the Maritime Administration; the Environmental Protection Agency; other interested Federal agencies, and non-Federal public and private interests, is authorized and directed to undertake a program to demonstrate the practicability of extending the navigation season on the Great Lakes and Saint Lawrence Seaway. Such program shall include, but not be limited to, ship voyages extending beyond the normal navigation season; observation and surveillance of ice conditions and ice forces; environmental and ecological investigations; collection of technical data related to improved vessel design; ice control facilities, and aids to navigation; physical model studies; and coordination of the collection and dissemination of information to shippers on weather and ice conditions. The Secretary of the Army, acting through the Chief of Engineers, shall submit a report describing the results of the program to the Congress not later than July 30, 1974. There is authorized to be appropriated to the Secretary of the Army not to exceed \$6,500,000 to carry out this subsection.*

(c) *The Secretary of Commerce, acting through the Maritime Administration, in consultation with other interested Federal agencies, representatives of the merchant marine, insurance companies, industry, and other interested organizations, shall conduct a study of ways and means to provide reasonable insurance rates for shippers and vessels engaged in waterborne commerce on the Great Lakes and the Saint Lawrence Seaway beyond the present navigation season, and shall submit a report, together with any legislative recommendations, to Congress by June 30, 1971.*

SEC. 108. (a) *The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate, study, and undertake measures in the interests of water quality, environmental quality, recreation, fish and wildlife, and flood control, for the Cuyahoga River Basin, Ohio. Such measures shall include, but not be limited to, clearing, snagging, and removal of debris from the river's bed and banks; dredging and structural works to improve streamflow and water quality; and bank stabilization by vegetation and other means. In carrying out such studies and investigations the Secretary of the Army, acting through the Chief of Engineers, shall cooperate with interested Federal and State agencies.*



(b) Prior to initiation of measures authorized by this section, such non-Federal public interests as the Secretary of the Army, acting through the Chief of Engineers, may require shall agree to such conditions of cooperation as the Secretary of the Army, acting through the Chief of Engineers, determines appropriate, except that such conditions shall be similar to those required for similar project purposes in other Federal water resources projects.

SEC. 109. (f) Section 110 of the River and Harbor Act of 1958 (72 Stat. 297) is amended to read as follows:

"(f) There is hereby authorized to be appropriated the sum of \$2,000,000 to carry out the provisions of this section and, upon completion of transfer to the State of Illinois of all right, title, and interest of the United States in and to the canal, an additional sum of \$6,528,000 to be expended for the repair, modification, and maintenance of bridges, title transfer, modification or rehabilitation of hydraulic structures, fencing, clearing auxiliary ditches, and for the repair and modification of other canal property appurtenances, notwithstanding subsection (b) of this section."

SEC. 110. The project for the Trinity River and tributaries, Texas, authorized in section 301 of the River and Harbor Act of 1965 (79 Stat. 1073) is hereby modified to provide that not to exceed \$75,000 of the costs incurred in 1968 and 1969 by the Trinity River Authority of Texas for aerial photography and mosaic preparation furnished to and accepted by the Secretary of the Army, acting through the Chief of Engineers, shall be credited as a part of the local contribution required of such authority for such project.

SEC. 111. In all cases where real property shall be taken by the United States for the public use in connection with any improvement of rivers, harbors, canals, or waterways of the United States, and in all condemnation proceedings by the United States to acquire lands or easements for such improvements, the compensation to be paid for real property taken by the United States above the normal high water mark of navigable waters of the United States shall be the fair market value of such real property based upon all uses to which such real property may reasonably be put, including its highest and best use, any of which uses may be dependent upon access to or utilization of such navigable waters. In cases of partial takings of real property, no depreciation in the value of any remaining real property shall be recognized and no compensation shall be paid for any damages to such remaining real property which result from loss of or reduction of access from such remaining real property to such navigable waters because of the taking of real property or the purposes for which such real property is taken. The compensation defined herein shall apply to all acquisitions of real property after the date of enactment of this Act, and to the determination of just compensation in any condemnation suit pending on the date of enactment hereof.

SEC. 112. (a) Subsection (a) of section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) is amended by striking out "\$10,000,000" and inserting in lieu thereof "\$25,000,000". Subsection (b) of such section 107 is amended by striking out "\$500,000" and inserting in lieu thereof "\$1,000,000".

(b) Section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned prop-

erty", approved August 13, 1946, as amended (33 U.S.C. 426g), is amended (1) by striking out "\$10,000,000" and inserting in lieu thereof "\$25,000,000", and (2) by striking out "\$500,000" and inserting in lieu thereof "\$1,000,000".

(c) The amendments made by this section shall not apply to any project under contract for construction on the date of enactment of this Act.

SEC. 113. The New York Harbor Collection and Removal of Drift project is hereby modified substantially in accordance with the plans on file in the Office, Chief of Engineers, subject to the approval of such plans and recommendations for requirements of local cooperation by the Secretary of the Army and the President. Any disposal of materials in carrying out this project shall be in accordance with Federal and State laws and regulations with respect to the control of air and water pollution.

SEC. 114. The project for Santa Barbara Harbor, California, authorized by the River and Harbor Act approved March 2, 1945, is hereby modified to provide that the dredging and maintenance of such project shall be the responsibility of the United States.

SEC. 115. The multiple-purpose plan for improvement of the Arkansas River and tributaries, authorized by the River and Harbor Act of July 24, 1946, as amended and modified, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct a bridge and necessary approach facilities across Spaniard Creek, Muskogee County, Oklahoma, as a replacement for the former bridge which was removed in connection with the construction of Lock and Dam Numbered 16. Appropriate non-Federal interests as determined by the Secretary of the Army, acting through the Chief of Engineers, shall own, operate, and maintain the bridge and approach facilities after completion of construction.

SEC. 116. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake measures to clear the channel of the North Branch of the Chicago River, Illinois, of fallen trees, roots, and other debris and objects which contribute to flooding, unsightliness, and pollution of the river.

(b) Prior to initiation of measures authorized by this section, such non-Federal interests as the Secretary of the Army, acting through the Chief of Engineers, may require shall agree to such conditions of cooperation as the Secretary of the Army, acting through the Chief of Engineers, determines appropriate, except that such conditions shall be similar to those required for similar project purposes in other Federal water resources projects.

(c) There is authorized to be appropriated to the Secretary of the Army not to exceed \$200,000 for the Federal share of the project.

SEC. 117. The project for Port Orford, Oregon, authorized by the River and Harbor Act of 1965 in accordance with the recommendations of the Chief of Engineers in Senate Document Numbered 62, Eighty-eighth Congress, is hereby modified to provide for maintenance of a suitable channel to the existing port facilities, not exceeding the sixteen-foot natural depth available at the time of project authorization, subject to the conditions that local interests agree to (1) provide without cost to the United States all necessary lands,

easements, and rights-of-way; and (2) hold and save the United States free from damages due to the work. No such dredging shall be performed within fifty feet of the docks.

SEC. 118. The project for the Ouachita and Black Rivers, Arkansas and Louisiana, authorized by the River and Harbor Act of 1960, is hereby modified to provide for the acquisition of lands for establishment of national wildlife refuges, under the provisions of Public Law 85-624 and section 6(c) of Public Law 89-72, at an estimated additional Federal cost of \$13,500,000, substantially in accordance with the report of the Chief of Engineers dated November 25, 1970, subject to approval by the Secretary of the Army and the President.

SEC. 119. The Chief of Engineers, for the purpose of determining Federal and non-Federal cost sharing, relating to proposed construction of small-boat navigation projects, shall consider charter fishing craft as commercial vessels.

SEC. 120. Paragraph (1) of subsection (p) of section 11 of the Federal Water Pollution Control Act, as amended, is amended by inserting after the word "size", in the first sentence thereof, a new clause as follows: "but not including any barge that is not self-propelled and that does not carry oil as cargo or fuel."

SEC. 121. The Secretary of the Army, acting through the Chief of Engineers, in cooperation with the Secretary of Housing and Urban Development shall investigate the L-K Street slide area in Anchorage, Alaska, with a view of determining the practicability and the feasibility of corrective measures that would permit federal mortgage insurance under the National Housing Act for homes and multifamily structures in the area and shall report thereon to the Congress.

SEC. 122. Not later than July 1, 1972, the Secretary of the Army, acting through the Chief of Engineers, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than ninety days after submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project have been fully considered in developing such project, and that the final decisions on the project are made in the best over all public interest, taking into consideration the need for flood control, navigation and associated purposes, and the cost of eliminating or minimizing such adverse affects and the following:

- (1) Air, noise, and water pollution;
- (2) destruction or disruption of man-made and natural resources, esthetic values, community cohesion and the availability of public facilities and services;
- (3) adverse employment effects and tax and property value losses;
- (4) injurious displacement of people, businesses, and farms; and
- (5) disruption of desirable community and regional growth.

Such guidelines shall apply to all projects authorized in this Act and proposed projects after the issuance of such guidelines.

SEC. 123. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate, and maintain, subject to the provisions of subsection (c), contained spoil disposal facil-

ities of sufficient capacity for a period not to exceed ten years, to meet the requirements of this section. Before establishing each such facility, the Secretary of the Army shall obtain the concurrence of appropriate local governments and shall consider the views and recommendations of the Administrator of the Environmental Protection Agency and shall comply with requirements of section 21 of the Federal Water Pollution Control Act, and of the National Environmental Policy Act of 1969. Section 9 of the River and Harbor Act of 1899 shall not apply to any facility authorized by this section.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall establish the contained spoil disposal facilities authorized in subsection (a) at the earliest practicable date, taking into consideration the views and recommendations of the Administrator of the Environmental Protection Agency as to those areas which, in the Administrator's judgment, are most urgently in need of such facilities and pursuant to the requirements of the National Environmental Policy Act of 1969 and the Federal Water Pollution Control Act.

(c) Prior to construction of any such facility, the appropriate State or States, interstate agency, municipality, or other appropriate political subdivision of the State shall agree in writing to (1) furnish all lands, easements, and rights-of-way necessary for the construction, operation, and maintenance of the facility; (2) contribute to the United States 25 per centum of the construction costs, such amount to be payable either in cash prior to construction, in installments during construction, or in installments, with interest at a rate to be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due or callable for redemption for fifteen years from date of issue; (3) hold and save the United States free from damages due to construction, operation, and maintenance of the facility; and (4) except as provided in subsection (f), maintain the facility after completion of its use for disposal purposes in a manner satisfactory to the Secretary of the Army.

(d) The requirement for appropriate non-Federal interest or interests to furnish an agreement to contribute 25 per centum of the construction costs as set forth in subsection (c) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State or States involved, interstate agency, municipality, and other appropriate political subdivision of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

(e) Notwithstanding any other provision of law, all costs of disposal of dredged spoil from the project for the Great Lakes connecting channels, Michigan, shall be borne by the United States.

(f) The participating non-Federal interest or interests shall retain title to all lands, easements, and rights-of-way furnished by it pursuant to subsection (c). A spoil disposal facility owned by a non-Federal



interest or interests may be conveyed to another party only after completion of the facility's use for disposal purposes and after the transferee agrees in writing to use or maintain the facility in a manner which the Secretary of the Army determines to be satisfactory.

(g) Any spoil disposal facilities constructed under the provisions of this section shall be made available to Federal licensees or permittees upon payment of an appropriate charge for such use. Twenty-five per centum of such charge shall be remitted to the participating non-Federal interest or interests except for those excused from contributing to the construction costs under subsections (d) and (e).

(h) This section, other than subsection (i), shall be applicable only to the Great Lakes and their connecting channels.

(i) The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized to extend to all navigable waters, connecting channels, tributary streams, other waters of the United States and waters contiguous to the United States, a comprehensive program of research, study, and experimentation relating to dredged spoil. This program shall be carried out in cooperation with other Federal and State agencies, and shall include, but not be limited to, investigations, on the characteristics of dredged spoil, and alternative methods of its disposal. To the extent that such study shall include the effects of such dredge spoil on water quality, the facilities and personnel of the Environmental Protection Agency shall be utilized.

SEC. 124. Title I of this Act may be cited as the "River and Harbor Act of 1970".

## TITLE II—FLOOD CONTROL

SEC. 201. Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this title. The following works of improvement for the benefit of navigation and the control of destructive floodwaters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

### ARKANSAS RIVER BASIN

The project for flood protection and other purposes on the Deep Fork River in the vicinity of Arcadia, Oklahoma, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91-299, at an estimated cost of \$24,900,000.

### ARKANSAS-RED RIVER BASIN

The project for water quality control in the Arkansas-Red River Basin, Texas, Oklahoma, and Kansas, designated as Part I, authorized by the Flood Control Act of 1966, is hereby modified to include Part II of such project, substantially in accordance with the recommendations of the Chief of Engineers in his report dated May 6, 1970, except that the amount authorized for Part I shall be utilized for initiation and partial accomplishment of Parts I and II. Construction shall not be initiated until approved by the Secretary of the Army and the President.

## LOWER MISSISSIPPI RIVER BASIN

*The project for flood control and improvement of the lower Mississippi River, adopted by the Act of May 15, 1928 (45 Stat. 534), as amended and modified, is hereby further modified and expanded to include the project for flood protection within the areas of eastern Rapides and south-central Avoyelles Parishes, Louisiana, that are drained by the Bayou des Glaises diversion channel, and Lake Long and their tributaries, substantially in accordance with the recommendations of the Chief of Engineers in Senate Document Numbered 91-113, at an estimated cost of \$15,333,000.*

## MISSOURI RIVER BASIN

*The project for flood protection and other purposes in the Blue River Basin, vicinity of Kansas City, Missouri and Kansas, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91-332, except that not to exceed \$40,000,000 is authorized for initiation and partial accomplishment of the project. Construction of the Tomahawk Creek Reservoir shall not be initiated until the Secretary of the Army has been assured by the Chief of Engineers that the most feasible combination of improvements having the most favorable impact upon the environment and future development of the Tomahawk Creek Watershed has been assured.*

*The project for Oahe Dam and Reservoir, Missouri River, North Dakota, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in Senate Document Numbered 91-23, at an estimated cost of \$732,000.*

## RED RIVER OF THE NORTH

*The project for flood protection and other purposes on Wild Rice River, Minnesota, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 366, Ninetieth Congress, at an estimated cost of \$8,359,000.*

*The project for flood protection and other purposes on the Sheyenne River, North Dakota, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91-330, at an estimated cost of \$20,000,000.*

## SOURIS RIVER BASIN

*The project for Burlington Dam and Reservoir on the Souris River, North Dakota, for flood protection and other purposes, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91-321, at an estimated cost of \$29,240,000.*

## SANTA BARBARA COUNTY COASTAL STREAMS

*The project for flood protection on Atascadero Creek and its tributaries of Goleta, California, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91-392, at an estimated cost of \$13,830,000.*

## SABINE RIVER BASIN

*The project for flood protection and other purposes in the Sabine River Basin, Texas and Louisiana, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91-429, except that not to exceed \$40,000,000 is authorized for initiation and partial accomplishment of the project.*

## UPPER MISSISSIPPI RIVER BASIN

*The project for flood protection on the Mississippi River at Davenport, Iowa, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated December 4, 1970, at an estimated cost of \$12,263,000. Construction shall not be initiated until approved by the Secretary of the Army and by the President.*

## OHIO RIVER BASIN

*The project for flood protection on Mill Creek, Ohio, is hereby authorized, substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91-413, at an estimated cost of \$36,642,000.*

## GREAT LAKES BASIN

*The project for flood protection along Red Run Drain and Lower Clinton River, Michigan, is hereby authorized, substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91-431, except that not to exceed \$40,000,000 is authorized for initiation and partial accomplishment of the project.*

*The project for the Sandridge Dam and Reservoir, Ellicott Creek, New York, for flood protection and other purposes is hereby authorized, substantially in accordance with the recommendations of the Chief of Engineers in his report dated November 25, 1970, at an estimated cost of \$19,070,000. Construction shall not be initiated until approved by the Secretary of the Army and the President. Prior to the commencement of this project, including, but not limited to, acquisition of real property, the Secretary of the Army, acting through the Chief of Engineers, shall investigate all possible alternative methods, including, but not limited to, possible relocation of elements of the project, installation of channels, provision of levees and floodwalls, decreasing of size of project facilities, rerouting of streams, raising or lowering pools, and deepening channels and movement on the stream, or any combination of the foregoing that can accomplish the purposes of this project and shall report his findings and determinations to the Congress.*

## COMMONWEALTH OF PUERTO RICO

*The project for flood protection and other purposes for Portugues Dam and Reservoir, Puerto Rico, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91-422, at an estimated cost of \$11,110,000.*

*The project for flood protection and other purposes for Cerrillos Dam and Reservoir, Puerto Rico, is hereby authorized substantially*

*in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91-422, at an estimated cost of \$16,351,000.*

*The project for flood protection and other purposes for channel improvements of Ponce, Puerto Rico, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in House Document Numbered 91-422, at an estimated cost of \$14,295,000.*

#### SACRAMENTO RIVER BASIN

*The project for flood protection and other purposes on Cottonwood Creek, California, is hereby authorized substantially in accordance with the recommendation of the Chief of Engineers in his report dated December 14, 1970, except that not to exceed \$40,000,000 is authorized for initiation and partial accomplishment of the project. Construction shall not be initiated until approved by the Secretary of the Army and the President.*

#### SAN JOAQUIN RIVER BASIN

*The project for Merced County Streams, California, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated November 25, 1970, at an estimated cost of \$37,260,000. Construction shall not be initiated until approved by the Secretary of the Army and the President.*

#### KANEOHE-KAILUA AREA, OAHU, HAWAII

*The project for flood protection in the Kaneohe-Kailua area on the east coast of the island of Oahu, Hawaii, is hereby authorized substantially in accordance with the recommendations of the Chief of Engineers in his report dated November 23, 1970, at an estimated cost of \$7,249,000. Construction shall not be initiated until approved by the Secretary of the Army and the President.*

*SEC. 202.(a) The plan for flood protection in the Big Sandy River Basin, Kentucky, West Virginia, and Virginia, included in the comprehensive plan for flood control in the Ohio River Basin, authorized by the Flood Control Act, approved June 22, 1936 (49 Stat. 1570), as amended and modified, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to relocate Levisa Fork of the Big Sandy River at Pikeville, Kentucky, and to construct related drainage facilities, in connection with the city of Pikeville's model city program. Such channel relocation shall be accomplished by excavation of an open cut to connect the points of the horseshoe bend in Levisa Fork at Pikeville, and the open cut shall be designed and constructed to such dimensions and grades as will permit relocation of the river with the Chesapeake and Ohio Railway on the left descending bank and the United States Highway Numbered 23 on the right descending bank of such open cut. Spoil material from the open cut shall be utilized for filled areas included in the model city plan.*

*(b) The work authorized by this section shall not be commenced until an agreement satisfactory to the Secretary of the Army, acting through the Chief of Engineers, has been entered into with the Department of Housing and Urban Development, the State Highway Department of Kentucky, the Federal Highway Administration, the Appalachian Regional Commission, the Chesapeake and Ohio Railway*



*Company, the city of Pikeville, and other participating agencies, relative to the financial responsibility of each participant in the model city project; and appropriate non-Federal interests have furnished the cooperation required by section 3 of the Flood Control Act, approved June 22, 1936 (40 Stat. 1570), as amended. Financial participation of the Department of the Army shall be based upon an equitable distribution of costs among the participants.*

*SEC. 203. The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate and participate with concerned Federal, State, and local agencies in preparing the general plan for the development of the water resources of the western United States authorized by the Colorado River Basin Project Act (82 Stat. 885).*

*SEC. 204. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with the Commonwealth of Puerto Rico, political subdivisions thereof, and appropriate agencies and instrumentalities thereof, in the preparation of plans for the development, utilization, and conservation of water and related land resources of drainage basins and coastal areas in the Commonwealth of Puerto Rico, and to submit to Congress reports and recommendations with respect to appropriate participation by the Department of the Army in carrying out such plans. Such plans that may be recommended to the Congress shall be harmonious components of overall development plans being formulated by the Commonwealth and shall be fully coordinated with all interested Federal agencies.*

*(b) The Secretary of the Army, acting through the Chief of Engineers, shall consider plans to meet the needs of the Commonwealth for protection against floods, wise use of flood plain lands, improvement of navigation facilities, regional water supply and waste management systems, outdoor recreational facilities, the enhancement and control of water quality, enhancement and conservation of fish and wildlife, beach erosion control, and other measures for environmental enhancement.*

*SEC. 205. Notwithstanding the first proviso in section 201 of the Acts entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes" approved June 30, 1948 (62 Stat. 1171), and May 17, 1950 (64 Stat. 63), the authorization in section 203 of the Act of June 30, 1948, and section 204 of the Act of May 17, 1950, of the project for local protection at East Grand Forks, Minnesota, shall expire on April 17, 1975, unless local interests shall before such date furnish assurances satisfactory to the Secretary of the Army that the required local cooperation in such project will be furnished.*

*SEC. 206. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to elevate, relocate, or make such other changes as may be necessary to insure that the road located in the Wolf Creek Park area, running in an east-west direction and crossing Wolf Creek, Harris Branch, and Strain Branch in the Navarro Mills Reservoir, Texas, will at all times be above elevation four hundred and forty-three feet above mean sea level.*

*SEC. 207. Paragraph (2) under the heading "Lower Mississippi River Basin" in section 203 of the Flood Control Act of 1966 (Public Law 89-789) is amended by striking out "Baton Rouge, Louisiana," and inserting in lieu thereof "Cairo, Illinois;".*

SEC. 208. Subsection (b) of the first section of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property.", approved August 13, 1946 (33 U.S.C. 426e(b)), is amended by inserting "(1)" after "except that", by striking out "and, further, that" and inserting "(2)" in lieu thereof, and by inserting before the period at the end thereof a comma and the following: "and (3) Federal participation in the cost of a project providing hurricane protection may be, in the discretion of the Secretary of the Army, acting through the Chief of Engineers, not more than 70 per centum of the total cost exclusive of land costs."

SEC. 209. It is the intent of Congress that the objectives of enhancing regional economic development, the quality of the total environment, including its protection and improvement, the well-being of the people of the United States, and the national economic development are the objectives to be included in federally financed water resource projects, and in the evaluation of benefits and cost attributable thereto, giving due consideration to the most feasible alternative means of accomplishing these objectives.

SEC. 210. The project for the western Kentucky tributaries (Obion Creek), Kentucky, authorized as part of the comprehensive plan for the lower Mississippi Basin in the Flood Control Act of 1965, is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, shall, after the date of enactment of this Act, relocate at Federal expense all transmission lines (both gas and electric) in western Kentucky required to be relocated by this project or, at his discretion, reimburse or credit local interests for such relocations made by them.

SEC. 211. (a) Section 3013 of title 10, United States Code, is amended by striking out "four Assistant Secretaries" and inserting in lieu thereof the following: "five Assistant Secretaries", and by adding at the end thereof the following: "One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Civil Works. He shall have as his principal duty the overall supervision of the functions of the Department of the Army relating to programs for conservation and development of the national water resources including flood control, navigation, shore protection, and related purposes."

(b) Paragraph (15) of section 5315 of title 5, United States Code, is amended by striking out "(4)" and inserting in lieu thereof "(5)".

SEC. 212. The Secretary of the Army, acting through the Chief of Engineers, is authorized, in the interests of flood control and related purposes, to remove logjams in the lower Guadalupe River, Texas. Prior to the undertaking of the work authorized by this section, appropriate non-Federal interests shall agree to furnish without cost to the United States lands, easements, and rights-of-way necessary for the work, to hold and save the United States free from damages due to the work and to perform all such work thereafter.

SEC. 213. The Secretary of the Army, acting through the Chief of Engineers, is authorized to resolve the seepage and drainage problem in the vicinity of the town of Niobrara, Nebraska, that may be related to operation of Gavins Point Dam and Lewis and Clark Lake project, Nebraska and South Dakota, subject to a determination by the Chief of Engineers with the approval of the Secretary of the Army, of the most feasible solution thereto. There is authorized to

be appropriated to the Secretary not to exceed \$7,800,000 to carry out this section.

SEC. 214. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to perform dredging operations in the Coal River Basin, West Virginia, for the purpose of improving the channel capacities in the interest of flood control. Such operations shall be performed on an interim basis pending completion of the Kanawha River Basin comprehensive study being undertaken by Federal and State agencies and implementation of the pertinent study recommendations by the Secretary of the Army. Appropriate non-Federal public interests as determined by the Secretary of the Army, acting through the Chief of Engineers, shall, prior to initiation of dredging operations, agree to furnish the necessary lands, disposal areas, easements, and rights-of-way, and hold and save the United States free from damages due to the dredging operations.

SEC. 215. The project for flood protection on the Klamath River at and in the vicinity of Klamath, California, authorized by the Flood Control Act of 1966 (80 Stat. 1205), is hereby modified to require the Secretary of the Army, acting through the Chief of Engineers, to provide, as an essential part of the project, bank protection works extending approximately two miles downstream from the project to protect the north bank of the river from erosion due to Klamath River flows. Non-Federal interests shall furnish lands and interests therein necessary for the works, hold and save the United States free from damages due to the works, and operate and maintain the works after completion.

SEC. 216. The Secretary of the Army, acting through the Chief of Engineers, is authorized to review the operation of projects the construction of which has been completed and which were constructed by the Corps of Engineers in the interest of navigation, flood control, water supply, and related purposes, when found advisable due the significantly changed physical or economic conditions, and to report thereon to Congress with recommendations on the advisability of modifying the structures or their operation, and for improving the quality of the environment in the overall public interest.

SEC. 217. The Secretary of the Army is hereby authorized and directed to cause surveys for flood control and allied purposes, including channel and major drainage improvements, and floods aggravated by or due to wind or tidal effects, to be made under the direction of the Chief of Engineers, in drainage areas of the United States and its territorial possessions, which include the localities specifically named in this section. After the regular or formal reports made on any survey authorized by this section are submitted to Congress, no supplemental or additional report or estimate shall be made unless authorized by law except that the Secretary of the Army may cause a review of any examination or survey to be made and a report thereon submitted to Congress, if such review is required by the national defense or by changed physical or economic conditions.

Great Swamp, New River Basin, South Carolina.

Streams flowing through West Brazoria County Drainage District Numbered 11 in Brazoria County, Texas.

Vermilion River, Ohio.

Huron River, Ohio.

*Black River, Lorain County, Ohio.*  
*Black Creek, Clay County, Florida.*  
*Grand Lake, St. Marys, Ohio.*  
*Coody Creek, Muskogee, Oklahoma.*  
*Kapaa Stream, Kauai, Hawaii.*  
*Waikomo Stream, Kauai, Hawaii.*  
*Hanalei River, Kauai, Hawaii.*  
*Waikane Stream, Oahu, Hawaii.*  
*Moanalua Stream, Oahu, Hawaii.*  
*Waihee Stream, Oahu, Hawaii.*  
*Waikele Stream, Oahu, Hawaii.*  
*Kamananui Stream, Oahu, Hawaii.*  
*Kahana Stream, Oahu, Hawaii.*  
*Waolani Stream, Oahu, Hawaii.*  
*Kaaawa Stream, Oahu, Hawaii.*  
*Makaha Stream, Oahu, Hawaii.*  
*Olowalu Stream, Maui, Hawaii.*  
*Palai, Four Mile Creek, Hawaii, Hawaii.*  
*Kona, Hawaii, Hawaii.*

SEC. 218. *The Claremont Dam and Reservoir, New Hampshire, authorized by the Flood Control Act approved June 28, 1938 as a part of the comprehensive plan for flood control and other purposes for the Connecticut River Basin, is not authorized after the date of enactment of this Act.*

SEC. 219. *The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to provide bank revetment works along the Ohio River at Newburgh, Indiana, to protect public and private property and facilities threatened by erosion.*

SEC. 220. *In addition to previous authorizations, there is hereby authorized to be appropriated the sum of \$1,400,000 for the prosecution of the Comprehensive Plan for the Upper Mississippi River Basin, approved in the Act of June 28, 1938, as amended and supplemented by subsequent acts of Congress.*

SEC. 221. (a) *After the date of enactment of this Act, the construction of any water resources project by the Secretary of the Army, acting through the Chief of Engineers, or by a non-Federal interest where such interest will be reimbursed for such construction under the provisions of section 215 of the Flood Control Act of 1968 or under any other provision of law, shall not be commenced until each non-Federal interest has entered into a written agreement with the Secretary of the Army to furnish its required cooperation for the project.*

(b) *A non-Federal interest shall be a legally constituted public body with full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform.*

(c) *Every agreement entered into pursuant to this section shall be enforceable in the appropriate district court of the United States.*

(d) *After commencement of construction of a project, the Chief of Engineers may undertake performance of those items of cooperation necessary to the functioning of the project for its purposes, if he has first notified the non-Federal interest of its failure to perform*



the terms of its agreement and has given such interest a reasonable time after such notification to so perform.

(e) The Secretary of the Army, acting through the Chief of Engineers, shall maintain a continuing inventory of agreements and the status of their performance, and shall report thereon annually to the Congress.

(f) This section shall not apply to any project the construction of which was commenced before January 1, 1972.

SEC. 222. The Secretary of the Interior in financing the relocation of the existing Placer County Road from Auburn to Foresthill, California, as part of the construction of the Auburn Dam and Reservoir on the Auburn-Folsom South Unit of the Central Valley Project, California, may provide for the cost of construction of a two-lane river level bridge across the North Fork of the American River with a substructure and deck truss capable of supporting a four-lane bridge.

SEC. 223. Section 204 of the Flood Control Act of 1950 is amended by adding at the end of the authorizations set forth under the center heading "COLUMBIA RIVER BASIN" the following new paragraph:

"The Secretary of the Army, acting through the Chief of Engineers, is authorized to pay to those railroad employees suffering long-term economic injury through reduction of income as the result of the relocation of rail transportation facilities due to the construction of Libby Dam, Montana, such sums as he determines equitable to compensate such employees for such injury. There is authorized to be appropriated to carry out this paragraph, not to exceed \$900,000."

SEC. 224. That the plan for flood protection in the Big Sandy River Basin, Kentucky, West Virginia, and Virginia included in the comprehensive plan for flood control in the Ohio River Basin, authorized by the Flood Control Act, approved June 22, 1936 (49 Stat. 1570), as amended and modified is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide the towns of Williamson, and Matewan, West Virginia, with comprehensive flood protection by a combination of local flood protection works and residential flood proofing and to initiate advanced engineering design and construction thereof as described by the Chief of Engineers in Report on Tug Fork, July 1970, at a total cost not to exceed \$10,000,000, except that no funds shall be appropriated to carry out this section until such modification is approved by the Appalachian Regional Commission and the President.

SEC. 225. Subsection (b) of section 206 of the Flood Control Act of 1960, as amended (33 U.S.C. 709a), if further amended by striking out "\$7,000,000" and inserting in lieu thereof "\$11,000,000."

SEC. 226. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review and study the operation of the Fort Randall multiple-purpose project, South Dakota, with a view to determining the advisability of modifying the project facilities or the regulation of the impounded waters, or both, and report thereon to the Congress.

SEC. 227. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to review and study the operation of the Summersville Lake multiple-purpose project, Gauley

*River, West Virginia, with a view to determining the advisability of modifying the project facilities or the regulation of the impounded waters, or both, and report thereon to the Congress.*

*SEC. 228. The comprehensive plan for flood control and other purposes in the Missouri River Basin, as authorized by the Act of June 28, 1938 (52 Stat. 1215), and as modified and expanded by subsequent Acts, is further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct a bridge across the Missouri River at an appropriate location midway between Bismarck, North Dakota, and Mobridge, South Dakota, in accordance with such plans as determined to be satisfactory by the Secretary of the Army so as to provide adequate crossing facilities over such river for highway traffic in the area. Prior to construction the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests as determined by him, which shall provide that after construction such non-Federal interests shall own, operate toll free, and maintain such bridge and approach facilities.*

*SEC. 229. The comprehensive plan for flood control and other purposes in the Missouri River Basin, as authorized by the Act of June 28, 1938 (52 Stat. 1215), and as modified and expanded by subsequent Acts, is further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct a bridge over the Little Missouri River at the Garrison Reservoir in the vicinity of Eagle Bay in Dunn County, North Dakota, in accordance with such plans as are determined to be satisfactory by the Secretary of the Army in order to provide adequate crossing facilities over such river for highway traffic in the area. Prior to construction the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests as determined by him, which shall provide that after construction such non-Federal interests shall own, operate toll free, and maintain such bridges and approach facilities.*

*SEC. 230. The project for the Perry Dam and Reservoir, Delaware River, Kansas, authorized as a unit of the comprehensive plan for flood control and other purposes, Missouri River Basin, by the Flood Control Act approved September 3, 1954, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to pave, with a bituminous surface, approximately five miles of Road "B", a segment of the relocation of FAS 328 from United States Route 24 to Kansas Route 92, Jefferson County, Kansas.*

*SEC. 231. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with the Commonwealth of Kentucky, political subdivisions thereof, appropriate agencies and instrumentalities thereof, the Forest Service, Department of Agriculture, and the Bureau of Outdoor Recreation, Department of the Interior, with a view to determining the feasibility and desirability of establishing a national recreation area generally encompassing in whole or in part the Kentucky River navigation project and reservoir projects in the upper Kentucky and Licking River Basins and adjacent and intervening areas, and to submit to the Congress reports and recommendations with respect to appropriate participation by the Department of the Army in carrying out such recommendations.*

*(b) Such studies shall review the reports of the Chief of Engineers*

contained in House Document 423, Eighty-seventh Congress, and the investigation authorized by the Flood Control Act of 1936, Public Law 783, Seventy-fourth Congress, and other appropriate reports, and shall consider plans to meet the needs of the Commonwealth for improvement of navigation facilities, outdoor recreational facilities, enhancement and conservation of fish and wildlife, and other measures for environmental enhancement.

(c) Such plans which may be recommended to the Congress shall be harmonious components of overall development plans being formulated by the Commonwealth and shall be fully coordinated with all interested Federal agencies.

SEC. 232. The project for Libby Dam, Kootenai River, Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers is authorized and directed, as part of the relocation of municipal facilities of Rexford, Montana, to design and construct a central sewage collection and sewage treatment facility.

SEC. 233. The Chief of Engineers, under the direction of the Secretary of the Army, is hereby authorized and directed to review and study the effects of strip mining operations upon navigable rivers and their tributaries, including water resource projects under his jurisdiction, and report on such studies to the Committees on Public Works of the Senate and the House of Representatives, within one year from the date of enactment of this Act, with recommendations as to measures necessary to mitigate any adverse conditions due to strip mining practices.

SEC. 234. Section 207 of the Flood Control Act of 1962 (Public Law 87-874), is amended by changing the period after the word "necessary", to a comma, and inserting the following: "including but not limited to prohibitions of dumping and unauthorized disposal in any manner of refuse, garbage, rubbish, trash, debris, or litter of any kind at such water resource development projects, either into the waters of such projects or onto any land federally owned and administered by the Chief of Engineers. Any violation of such rules and regulations shall be punished by a fine of not more than \$500 or imprisonment for not more than six months, or both. Any persons charged with the violation of such rules and regulations may be tried and sentenced in accordance with the provisions of section 3401 of title 18 of the United States Code. All persons designated by the Chief of Engineers for that purpose shall have the authority to issue a citation for violation of the regulations adopted by the Secretary of the Army, requiring the appearance of any person charged with violation to appear before the United States magistrate, within whose jurisdiction the water resource development project is located, for trial; and upon sworn information of any competent person any United States magistrate in the proper jurisdiction shall issue process for the arrest of any person charged with the violation of said regulations; but nothing herein contained shall be construed as preventing the arrest by any officer of the United States, without process, of any person taken in the act of violating said regulations."

SEC. 235. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed, as part of the comprehensive study of the water and related resources of the Susquehanna River

*Basin, to investigate and study, in cooperation with the Administrator of the Environmental Protection Agency and other interested departments, agencies, and instrumentalities of the Federal Government and of the governments of States and their political subdivisions, the availability, quality, and use of waters within the basin with a view toward assisting in the preparation of a comprehensive plan for the development, conservation, and use of such waters. The Environmental Protection Agency shall have the responsibility in carrying out this section for those aspects of the development, conservation, and use of such waters which are essentially within its jurisdiction.*

*(b) In connection with such investigations and studies the Secretary of the Army, acting through the Chief of Engineers, and in cooperation with the Environmental Protection Agency and all other interested Federal agencies, shall make such studies and develop such plans as deemed necessary for the construction, operation, and maintenance of facilities in selected regions of the basin, including augmentation of streamflows by releases of stored waters.*

*(c) Such facilities may include, but shall not be limited to, water conveyance systems; regional waste treatment, interceptor, and holding facilities; water treatment facilities; and facilities and methods for recharging ground water reservoirs.*

*(d) The Secretary of the Army, acting through the Chief of Engineers, shall submit to the Congress any and all parts of plans prepared pursuant to this section, which are approved by the Susquehanna River Basin Commission as in accordance with its comprehensive plan for the immediate and longrange development and use of the water resources of the basin, including all recommendations of the Environmental Protection Agency with respect to matters under its jurisdiction, and shall include recommendations for authorization and appropriate financial participation and cooperation by the States, political subdivisions thereof, and other local interests.*

*(e) In determining the need for storage for regulation of streamflow and water release, the Secretary of the Army, acting through the Chief of Engineers, shall not be limited by the provisions of section 3(b), (1) and (4) of the Federal Water Pollution Control Act, but with section 8 of the Federal Water Pollution Control Act and other like project purposes of water resources projects.*

*SEC. 236. Title II of this Act may be cited as the "Flood Control Act of 1970".*

*And the Senate agree to the same.*

JOHN A. BLATNIK,  
ROBERT E. JONES,  
HAROLD T. JOHNSON,  
WM. JENNINGS BRYAN DORN,  
WILLIAM C. CRAMER,  
DON H. CLAUSEN,  
*Managers on the Part of the House.*

JENNINGS RANDOLPH,  
STEPHEN M. YOUNG,  
EDMUND S. MUSKIE,  
B. EVERETT JORDAN,  
ROBERT DOLE,  
EDWARD J. GURNEY,  
*Managers on the Part of the Senate.*



## STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19877) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute. The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

### NAVIGATION

#### BALTIMORE HARBOR

The House bill contained the project for Baltimore Harbor and Channels, Maryland and Virginia, with a limitation of not to exceed \$40,000,000.

The Senate amendment did not contain the project.

The conference substitute is the same as the House bill except that a further limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

#### ATLANTIC INTRACOASTAL WATERWAY

The House bill contained the project for Atlantic Intracoastal Waterway Bridges, Virginia and North Carolina.

The Senate amendment did not contain the project.

The conference substitute is the same as the House bill except that a limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

#### PAMLICO RIVER AND MOREHEAD CITY

The Senate amendment contained the project for Pamlico River and Morehead City Harbor, North Carolina, with a limitation that construction was not to be initiated until approved by the President.

The House bill did not contain this project.

The conference substitute is the same as the Senate amendment except that the limitation has been modified so as to also require the approval of the Secretary of the Army.

## FREEPORT HARBOR

The House bill authorized the project for Freeport Harbor, Texas. The Senate amendment did not include this project.

The conference substitute is the same as the House bill except that a further limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

## NAWILIWILI HARBOR

The Senate amendment contained the project for Nawiliwili Harbor, Kauai, Hawaii, with a limitation that construction was not to be initiated until approved by the President.

The House bill did not contain this project.

The conference substitute is the same as the Senate amendment except that the limitation has been modified so as to also require the approval of the Secretary of the Army.

## MISSOURI RIVER

The House bill authorized the project for Missouri River, North Dakota, South Dakota, and Nebraska at an estimated cost of \$35,981,000.

The Senate amendment did not contain this project.

The conference substitute does not include the project. Although this project has been deleted, it has been done so without prejudice to its later consideration. The Secretary of the Army is presently reviewing a revised economic analysis of the project prepared by the Chief of Engineers. In view of the significance of this analysis and its affect on the scope of the project work, the conferees considered it advisable to delay approval of the project at this time.

## SAINT GEORGES CREEK

The House bill authorized the Secretary of the Army to study the feasibility of a project to deepen and maintain a navigation channel in St. Georges Creek, Maryland, to the Harry Lundeberg School of Seamanship at Piney Point, Maryland.

The Senate amendment authorized the study and also provided that a project was authorized as determined to be feasible and justified by the Chief of Engineers and the Secretary of the Army with the approval of the President unless disapproved by the Congress within 60 days after the date of submission to the Congress.

The conference substitute is the same as the Senate amendment with the exception that the 60 day period for Congressional review was extended to 90 days.

## SURVEYS

The House bill authorizes surveys to be made at the following locations:

Harbors and rivers in American Samoa and the territory of Guam, in the interests of navigation, flood control, and related water resources purposes.

Kanawha and James Rivers, with a view to determining the advisability of providing a waterway connecting the Kanawha River,

West Virginia, and James River, Virginia, by canals and appurtenant facilities.

Ventura Marina to Ventura Keys, Ventura County, California.

Elk River, Maryland.

Stillpond Creek, Kent County, Maryland.

Patapsco River, Brooklyn, Maryland.

Shooters Island, New York, possible removal and utilization for fill and widening of Arthur Kill.

The Senate amendment authorized surveys to be made at the first two locations listed in the House bill and at 12 additional locations in Hawaii.

The conference substitute includes all the surveys in the House bill and the 12 additional surveys in the Senate amendment.

#### ACQUISITION OF REAL PROPERTY

The House bill included a provision to the effect that when the United States acquires real property above the normal high water mark of the navigable waters of the United States for public use in connection with any improvement of rivers, harbors, canals, or waterway of the United States, the just compensation paid for real property taken shall be the fair market value of such property based upon all uses to which it may reasonably be put, including uses which may be dependent upon access to or utilization of such navigable waters. Where only a partial taking occurs, the section provides that no depreciation in the value of the remaining property shall be recognized, and no compensation shall be paid for any damages to such remaining property which result from loss or reduction of access from such property to the navigable waterway because of the partial taking.

The Senate amendment did not contain a similar provision.

The conference substitute retains the House provision. The Conferees wish to stress for purposes of clarification that any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property.

#### PORT ORFORD

The Senate amendment modified the previously authorized navigation project at Port Orford, Oregon, to provide for maintenance of a suitable channel to the existing land-side facilities.

The House bill did not contain a similar provision.

The Conference substitute is the same as the Senate bill.

#### OUACHITA AND BLACK RIVERS

The House bill modified the project for the Ouachita and Black Rivers in Arkansas and Louisiana to provide lands for national wildlife refuges.

The Senate amendment included the same authorization with a limitation that the plan was not to be initiated until approved by the Secretary of the Army and the President, and unless within the first

period of sixty calendar days of continuous session of the Congress after the date on which the report is submitted to it such report is disapproved by the Congress.

The Conference substitute is the same as the Senate but deletes the requirement for additional Congressional action.

#### COMMERCIAL VESSELS

The Senate amendment includes a provision that charter fishing craft shall be considered as commercial vessels for the purpose of determining cost sharing related to small-boat projects.

The House bill does not contain the provision.

The conference substitute is the same as the Senate amendment.

#### EVIDENCE OF FINANCIAL RESPONSIBILITY

The Senate amendment Section 11 of the Federal Water Pollution Control Act—relating to the discharge of oil—to exempt owners and operators of nonoil carrying, nonself propelled barge units from requirements of filing with the Federal Government evidence of financial responsibility to meet any liability imposed by the act.

The House bill does not contain this provision.

The conference substitute is the same as the Senate amendment.

#### ANCHORAGE, ALASKA

The Senate amendment included a provision that guarantees FHA mortgage insurance for residential structures in the L-K Street slide area in Anchorage, Alaska.

The House bill did not contain the provision.

The Conference substitute revises the provision so as to authorize the Secretary of the Army acting through the Chief of Engineers, in cooperation with the Secretary of Housing and Urban Development to investigate the L-K Street Slide area with a view of determining the practicability and the feasibility of corrective measures that would permit federal mortgage insurance under the National Housing Act for homes and multi-family structures in the area and to report thereon to the Congress.

#### ENVIRONMENTAL GUIDELINES

The Senate amendment had a provision that required the establishment of a compliance with guidelines to assure consideration of possible adverse economic, social, and environmental impacts of civil works projects and activities.

The House bill did not contain the provision.

The conference substitute modifies the Senate provision so as to require that not later than July 1, 1972, the Secretary of the Army, acting through the Chief of Engineers, shall submit to Congress, and not later than 90 days thereafter, promulgate guidelines to assure that adverse economic, social and environmental effects relating to any proposed project have been fully considered in developing such projects and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for flood control, navigation and associated purposes, and the cost of eliminating or



minimizing such adverse effects and the following: (1) air, noise, and water pollution; (2) destruction or disruption of man-made and natural resources, esthetic values, community cohesion and the availability of public facilities and services; (3) adverse employment effects and tax property value losses; (4) injurious displacement of people, businesses and farms; and (5) disruption of desirable community and regional growth. Such guidelines shall apply to all proposed projects after the issuance of such guidelines including the projects authorized in this Act.

#### GREAT LAKES DREDGING

The House bill contained a provision which provides that in any case where the Administrator of the Environmental Protection Agency determines that dredged spoil from an area within an authorized Federal navigation project is significantly polluted, and the Secretary of the Army thereafter determines that dredged spoil disposal facilities are available, then open water disposal of such dredged spoil shall be discontinued. No determinations as to significant pollution and availability of disposal areas are to be made except after consultation with the Governors of the affected States.

The section authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct contained spoil disposal facilities, subject to conditions of non-Federal cooperation, as soon as practicable. The priority of construction of the various facilities would be determined after considering the views and recommendations of the Administrator of the Environmental Protection Agency. Before establishing any spoil disposal facility, the Secretary of the Army would be required to obtain the concurrence of appropriate local governments and consider the views and recommendations of the Administrator and other appropriate heads of Federal agencies with respect to the location and the effect of the proposed facility on the quality of the water and land resources involved, and on the environment.

The requirement that local interests contribute to the United States 25 per centum of the construction costs, may be waived where the Administrator of the Environmental Protection Agency finds that the local interests are participating in an approved plan for the construction, modification, expansion, or rehabilitation of waste treatment facilities and are making progress satisfactory to the Administrator.

Subsection (f) provides that all costs of the disposal of dredged spoil from the connecting channels of the Great Lakes shall be borne by the Federal Government.

The Senate amendment contains no similar provision.

The conference substitute is essentially the same as the provisions of the House bill with the following exceptions:

(1) The first subsection relating to dual determinations by the Administrator of EPA and the Secretary of the Army is deleted.

(2) The provisions of Section 21 of the Federal Water Pollution Control Act and the National Environmental Policy Act of 1969 are specifically required to be complied with.

(3) The provision relating to waiver of the 25 per centum cost of construction is modified to require that prior to waiver that the

Administrator of EPA must make a finding that applicable water quality standards are not being violated.

(4) To the extent that the study authorized in subsection (i) includes the effect of dredged spoil on water quality the facilities and personnel of EPA shall be utilized.

## FLOOD CONTROL

### ARKANSAS-RED RIVER BASIN

The House bill contained a modification of the project for water quality control in the Arkansas-Red River Basin, Texas, Oklahoma, and Kansas, designated as Part I, authorized by the Flood Control Act of 1966, so as to include Part II of such project, with the limitation that the amount authorized for Part I shall be utilized for initiation and partial accomplishment of Parts I and II.

The Senate amendment authorized Part II, authorized \$5 million to be appropriated for partial accomplishment of the plan, and provided that construction would not be initiated until approved by the President.

The conference substitute is the same as the House bill, except that a further limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

### DAVENPORT, IOWA

The House bill contained the project for flood protection on the Mississippi River at Davenport, Iowa.

The Senate amendment included this project with a limitation that construction should not be initiated until approved by the President.

The conference substitute is the same as the Senate amendment with the further requirement for approval by the Secretary of the Army.

### SANDRIDGE DAM

The House bill contained the project for the Sandridge Dam and Reservoir, Ellicott Creek, New York, for flood protection and other purposes, with certain specified limitations prior to commencement of the initiation of the project.

The Senate amendment did not contain the project.

The conference substitute is the same as the House bill, except that a further limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

### SACRAMENTO RIVER BASIN

The House bill contained the project for flood protection on Cottonwood Creek, California, with a limitation of \$40,000,000.

The Senate amendment did not contain the project.

The conference substitute is the same as the House bill, except that a further limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

## SAN JOAQUIN RIVER BASIN

The House bill contained the project for Merced County Streams, California.

The Senate amendment did not contain the project.

The conference substitute is the same as the House bill, except that a limitation has been added that construction of the project is not to be initiated until approved by the Secretary of the Army and the President.

## KANEHOHE-KAILUA AREA, OAHU, HAWAII

The Senate amendment included authorization for a project for flood protection in the Kaneohe-Kailua area on the east coast of the island of Oahu, Hawaii, with a limitation that construction should not be initiated until approved by the President.

The House bill did not contain this authorization.

The conference substitute is the same as the Senate amendment with the further requirement for approval by the Secretary of the Army.

## BENEFIT-COST EVALUATION

The House bill includes a provision stating the intent of Congress that the objectives of enhancing regional economic development, the quality of the total environment, including its protection and improvement, the well-being of the people of the United States, and the national economic development are the objectives to be included in water resource projects prosecuted by the Secretary of the Army, acting through the Chief of Engineers, and in the evaluation of benefits and costs attributable thereto.

The Senate amendment includes the same objectives but broadens its coverage to all federally financed water resource projects.

The conference substitute is the same as the Senate amendment with the addition of requiring due consideration to the most feasible alternative means of accomplishing these objectives.

## SURVEYS

The House bill included authorization for studies to be undertaken by the Chief of Engineers at the following locations:

Great Swamp, New River Basin, South Carolina.

Streams flowing through West Brazoria County Drainage District Numbered 11 in Brazoria County, Texas.

Vermilion River, Ohio.

Huron River, Ohio.

Black River, Lorain County, Ohio.

Black Creek, Clay County, Florida.

Grand Lake, St. Marys, Ohio.

Coody Creek, Muskogee, Oklahoma.

The Senate amendment included such authorization for Black Creek, Clay County, Florida, and 15 areas in Hawaii.

The conference substitute contains the 8 studies authorized in the House bill and adds the additional studies authorized in the Senate amendment.

## FLOOD PLAIN INFORMATION

The Senate amendment increases the annual authorization which can be used for flood plain information activities from \$7 million to \$15 million.

The House bill has no similar provision.

The conference substitute is the same as the Senate amendment except that the annual authorization is established at \$11 million.

## FORT RANDALL

The Senate amendment authorizes a study to determine the advisability of modifying the project facilities or the regulation of impounded waters, or both, of the Fort Randall project in South Dakota.

The House bill has no similar provision.

The conference substitute is the same as the Senate amendment.

## SUMMERSVILLE LAKE

The Senate amendment authorizes a study to determine the advisability of modifying the project facilities or the regulation of impounded waters, or both, of the Summersville Lake project in West Virginia.

The House bill has no similar provision.

The conference substitute is the same as the Senate amendment.

## BRIDGE ACROSS MISSOURI RIVER

The Senate amendment modifies the Missouri River Basin project to provide for a free highway bridge over the Missouri River between Bismarck, North Dakota, and Mobridge, South Dakota.

The House bill has no similar provision.

The conference substitute is essentially the same as the Senate amendment with the addition of the requirement that prior to construction the Secretary of the Army shall enter into an agreement with the appropriate non-Federal interests which shall provide that after construction such non-Federal interests shall own, operate toll free, and maintain the bridge and the approach facilities.

## GARRISON RESERVOIR

The Senate amendment modifies the Missouri River Basin project to provide for a free highway bridge over the Little Missouri River at the Garrison Reservoir in the vicinity of Eagle Bay in Dunn County, North Dakota.

The House bill had no similar provision.

The conference substitute is essentially the same as the Senate amendment with the addition of the requirement that prior to construction the Secretary of the Army shall enter into an agreement with the appropriate non-Federal interests which shall provide that after construction such non-Federal interests shall own, operate toll free, and maintain the bridge and the approach facilities.



## PERRY DAM AND RESERVOIR

The Senate amendment includes a provision modifying the Perry Dam and Reservoir, Delaware River, Kansas, to provide for certain road paving.

The House bill contained no similar provision.

The conference substitute is the same as the Senate amendment.

## UPPER KENTUCKY AND LICKING RIVER BASIN

The Senate amendment authorizes a determination of the feasibility and desirability of establishing a national recreation area in the Upper Kentucky and Licking River Basins.

The House bill had no similar provision.

The conference substitute is the same as the Senate amendment.

## REXFORD, MONTANA

The Senate amendment modifies the Libby Dam project to include sewage collection and treatment works at Rexford, Montana, as a part of the relocation of municipal facilities.

The House bill had no similar provision.

The conference substitute is the same as the Senate amendment.

## STRIP MINING

The Senate amendment authorizes a study of the effects of strip mining operations on navigable rivers and water resource projects.

The House bill has no comparable provision.

The conference substitute is the same as the Senate amendment.

## ENFORCEMENT OF REGULATIONS

The Senate amendment provides authority to contend with the problem of unauthorized disposal of refuse at water resource development projects under the jurisdiction of the Corps of Engineers.

This provision makes it an offense to deposit litter of any kind either into the waters or on the land of any water resource development project administered by the Corps of Engineers. The Chief of Engineers is given authority to designate employees to issue citations for violations of antilitter regulations, requiring the appearance of any person charged with a violation to appear before a U.S. Magistrate for trial. Violations are punishable by a fine of not more than \$500 or imprisonment of not more than 6 months or both.

The House bill has no similar provision.

The conference substitute is the same as the Senate amendment.

At many of the Corps of Engineers public use areas at its water resources projects, the visitation has greatly increased and so has the litter problem. This problem exists in certain picnic areas, camp grounds on lake waters, and often at non-designated recreational areas of the projects. It exists even where ample containers are available for disposal of trash.

This needless littering degrades the recreational areas at which considerable Federal funds have been expended to bring healthy and clean recreational opportunities to the people of this Nation. It is

for this reason that this provision has been included in the Flood Control Act of 1970.

The Conferees recognize that there are many administrative and fiscal problems involved in making this provision apply to all the Corps of Engineers water resources development projects at one time. Therefore, the Conferees would have no objection to the Corps of Engineers initially implementing this provision selectively in those areas where it would be most urgently required.

#### SUSQUEHANNA RIVER BASIN

The House bill authorizes and directs the Secretary of the Army, acting through the Chief of Engineers, as part of the comprehensive study of the water and related resources of the Susquehanna River Basin, to investigate and study, in cooperation with the Administrator of the Environmental Protection Agency and other interested Federal and State agencies, the availability, quality, and use of waters within the basin with a view toward developing a comprehensive plan for the development, conservation, and use of such waters. The studies and investigations authorized include the development of plans, for recommendation to the Congress, concerning the construction, operation, and maintenance of water conveyance systems; regional waste treatment, interceptor, and holding facilities; water treatment facilities; and facilities and methods for recharging ground water reservoirs.

The Senate amendment did not contain the provision.

The conference substitute is essentially the same as the House bill, with certain amendments added so as to recognize the appropriate relationship of the new Susquehanna River Basin Commission.

S. 1079 of the present Congress which has recently been sent to the President for his approval establishes the Susquehanna River Basin Commission as a coordinating Federal-interstate agency for immediate and long range planning, development and use of the water resources of the Susquehanna River Basin. Nevertheless, the Conferees are mindful that the Army Corps of Engineers has done a recent study of the Susquehanna River Basin and that the Corps' continuance of this work will be of great value. Accordingly, this provision is intended to authorize the Corps to proceed in the making of its contributions within the framework provided by S. 1079 and the Compact contained therein.

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